IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 15185 of 2004

Between:

Dr.Mrs.Nirmala Mathuresan, w/o Sri R.A.Mathuresan,
r/o D.No.57/2-A, Kanta Basti, Tirumulgherry, Secunderabad.

..... PETITIONER

AND

1 Kumari Rama Devi, d/o M.Ram Reddy,
r/o Plot No.37, Srinagar Colony, Trimulgherry, Secunderabad.
2 M.Pushpa, w/o M.Ram Reddy,
r/o Plot No.37, Srinagar Colony,
Trimulgherry, Secunderabad.
3 G.D.Balaiah, s/o G.D.Danaiah,
r/o 3-16-749, Kanta Basti, Trimulgherry, Secunderabad.
4 M.Kumari, s/o Rangaswamy,
r/o Kanta Basti, Trimulgherry, Secunderabad.
5 Smt.S.Balamani, w/o Arichk Swamy,
r/o Kanta Basti, Trimulgherry, Secunderabad.
6 Hari Gabril, s/o Gabril,
r/o Kanta Basti, Trimulgherry,
Secunderabad.
7 Anthony, s/o Wilson,
r/o Kanta Basti, Trimulgherry, Secunderabad.
8 Loosie, s/o William,
r/o Kanta Basti, Trimulgherry, Secunderabad.
9 Mohamood Miyan, s/o Ahmed Miyan,
r/o Kanta Basti, Trimulgherry, Secunderabad.

10 Smt.Bhagyavathi, w/o S.Shankar,
r/o Kanta Basti, Trimulgherry, Secunderabad.
11 Smt.Swarnalatha, w/o Vardarajan,
r/o Kanta Basti, Trimulgherry, Secunderabad.
12 Smt.G.Anthu Bai, w/o G.Swamy,
r/o Kanta Basti, Trimulgherry, Secunderabad.
13 Narasimha, s/o Bakkaiah,
r/o Kanta Basti, Trimulgherry, Secunderabad.
14 J.Pochaiah, s/o A.J.Ramaiah,
r/o Kanta Basti, Trimulgherry, Secunderabad.
15 Gulzar Baig, s/o late Omar Baig,
r/o Kanta Basti, Trimulgherry, Secunderabad.

16 M.Geetha, w/o Kumar,
r/o Adj. to H.No.3-16-749, Kanta Basti, Trimulgherry, Secunderabad.
17 State of A.P., rep., by the Mandal Revenue Officer,
Trimulgherry, Secunderabad.
18 G.Swamy, s/o Beemaiah,
r/o Adj.to H.No.3-16-749, Kanta Basti, Trimulgherry, Secunderabad.
19 G.Murali, s/o G.Swamy,
r/o Adj.to H.No.3-16-749, Kanta Basti, Trimulgherry, Secunderabad.
20 G.Gopi, s/o G.Swamy,
r/o Adj.to H.No.3-16-749, Kanta Basti, Trimulgherry, Secunderabad.
21 G.Annapurna, s/o G.Swamy,
r/o Adj.to H.No.3-16-749, Kanta Basti, Trimulgherry, Secunderabad.
22 G.Arjun, s/o G.Swamy,
r/o Adj.to H.No.3-16-749, Kanta Basti, Trimulgherry, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly in the nature of a writ of mandamus declaring decree and order dated 26-02-2004 passed in LGC Nos.22 and 23 of 1998 on the file of the Court of the Special Court under the A.P.Land Grabbing (Prohibition) Act, Hyderabad, as arbitrary, illegal, capricious, high handed, and violate all cannons of law and justice and consequently direct the respondents therein not to interfere with the petitioner's rights and also dispossess her from her residential building bearing No.57/2-A situated in the land of an extent of about 727.4 sq.yards bearing Plot No.27, situated in S.No.57, Kantha Basthi, Tirumalgherry, Secunderabad.

Counsel for the Petitioner:MR.T.S.ANAND

Counsel for the Respondents 1 to 16: None appeared

Counsel for the Respondent No.17: GP FOR ASSIGNMENT

Counsel for the Respondents 18 to 22: None appeared.

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The petitioner, admittedly, was not a party to L.G.C. Nos.22 and 23 of 1998 decided on 26th Feburary, 2004 by the Special Court, Hyderabad under the Andhra Pradesh Land Grabbing (Prohibition) Act. The State of Andhra Pradesh was arrayed as respondent No.10 in L.G.C.No.22 of 1998 and respondent No.15 in L.G.C.No.23 of 1998. L.G.C.Nos.22 and 23 of 1998 were filed by respondents 1 and 2 herein against the State of Andhra Pradesh and other private respondents. In L.G.C.No.22 of 1998, the Special Court held that the rival title set up by respondents and State is true, valid and binding on the applicant and in view of the findings on other issues, it was held the respondents in the L.G.C.No.22 of 1998 were not land grabbers. Similarly, in L.G.C.No.23 of 1998, it was held that applicant is not the owner of the application schedule property and the rival title set up by respondents is true and valid. Respondent-State was held to be not a land grabber. Resultantly, both the petitions were dismissed. Though the said cases were dismissed, it appears that the Government in the garb of the finding recorded in L.G.C.Nos.22 and 23 of 1998 actually dispossessed the petitioner from the land in question on 20th May, 2004. Neither there was any order against the petitioner in the land grabbing cases nor there was any decree in favour of the Government in the land grabbing cases against the petitioner pursuant to which the petitioner could be evicted. Being a high handed action on the part of the officials of the State Government, the petitioner approached this court by filing W.P.No.9211 of 2004 which came up during the summer vacation before a learned single Judge and on 21st May, 2004, an order was passed directing the State Government to restore possession to the petitioner therein by 6.00 PM on the same day with further direction to the respondents therein not to demolish further and not to interfere with the petitioner's possession in premises bearing No.57/2-A in an extent of about 727.4 sq. yards bearing Plot No.27 in Survey No.57 situated in Kanta Basti, Trimulgherry, Secunderabad. The writ petition is pending to find out the conduct of the officers who have displaced the petitioner.

During the pendency of the aforementioned writ petition, the petitioner acquired knowledge of the order passed on 6th February, 2004 by the Special Court

and the present writ petition was filed by the petitioner questioning the legality and validity of the said order in so far as it pertains to recording of finding in respect of Survey No.57.

We need not hear any of the parties in this petition though they are arrayed as parties since we are concerned with the petitioner as well as the State since petitioner has chosen to question the order in view of the stand taken by the State that finding was recorded in the land grabbing cases in respect of Survey No.57. Needless to add that the cases before the Special Court were not initiated by the State Government. In case the State Government thinks that Government land has been grabbed, appropriate proceedings in accordance with law will have to be initiated by the State Government for dispossessing the petitioner, who, admittedly, is in possession of a part of the said survey number to the extent aforementioned. It will not be necessary for us to go into the findings recorded by the Special Court between one rival claimant and the other rival claimants when the petitioner is not a party to the proceedings. May be that the petitioner's predecessors are parties but the findings recorded in the land grabbing cases cannot empower the State to displace the petitioner on the basis of the said findings. The State will have to initiate action in accordance with law.

Accordingly, we dispose of the writ petition with direction that petitioner's possession shall not be disturbed otherwise than in due course of law.

_____ DEVINDER GUPTA, CJ

25-8-2004

_____ C.V.RAMULU, J

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To

1. The Mandal Revenue Officer, Trimulgherry, Secunderabad.
2. 2 CCs to the Govt. Pleader for Assignments, High Court Buildings, Hyderabad (OUT).
3. 2 CD copies.